

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

) CASE NO: 22-33553-cml  
)  
)  
) ALEXANDER E. JONES, ) Houston, Texas  
)  
) Debtor. ) Thursday, June 8, 2023  
)  
) 1:32 p.m. to 2:12 p.m.  
-----)

TRIAL

BEFORE THE HONORABLE CHRISTOPHER M. LOPEZ  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For Elevated Solutions: JOHNNIE J. PATTERSON  
Walker & Patterson, P.C.  
P.O. Box 61301  
Houston, TX 77208

For the Committee: DAVID ZENSKY  
KATHERINE PORTER  
Akin Gump Strauss Hauer & Feld LLP  
2300 N. Field Street, Suite 1800  
Dallas, TX 75201

For the Debtor: CHRISTINA WALTON STEPHENSON  
Crowe & Dunlevy  
2525 McKinnon Street, Suite 425  
Dallas, TX 75201

Court Reporter: Zilde Compean

Courtroom Deputy: Zilde Compean

Transcribed by: Veritext Legal Solutions  
330 Old Country Road, Suite 300  
Mineola, NY 11501  
Tel: 800-727-6396

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1                   HOUSTON, TEXAS; THURSDAY, JUNE 8, 2023; 1:32 PM

2                   (Call to Order)

3                   THE COURT: Okay. Good afternoon, everyone. This  
4                   is Judge Lopez. Today is June the 8th. I'm going to call  
5                   the 1:30 case. The line is completely unmuted. I'm hoping  
6                   we can pull this off. I'm going to call the Alex Jones case  
7                   here on Motion for a Protective Order and Emergency Motion  
8                   filed by Elevated Services Group. We can go ahead and take  
9                   appearances and then we'll see where we are. Mr. Patterson,  
10                  I see you there. Good afternoon.

11                  MR. PATTERSON: Good afternoon, Your Honor.  
12                  Johnnie Patterson here on behalf of ESG.

13                  THE COURT: Okay. Who wishes to make an  
14                  appearance on behalf of the Committee today?

15                  MR. ZENSKY: Good afternoon, Judge. It's David  
16                  Zensky at Akin with my partner, Katherine Porter, appearing  
17                  for the Official Committee of Unsecured Creditors and Ms.  
18                  Porter will be arguing on the Motion today for the  
19                  Committee.

20                  THE COURT: Okay. Good afternoon. Ms.  
21                  Stephenson, do you wish to make an appearance?

22                  MS. STEPHENSON: Yes, Your Honor. Christina  
23                  Stephenson for Alex Jones.

24                  THE COURT: Okay, and I see you there, Mr. Ruff.  
25                  Good afternoon.

1 MR. RUFF: Yes, good afternoon, Your Honor.

2 Jayson Ruff for the U.S. Trustee's Office. I'm more of an  
3 observer today, but good afternoon.

4 THE COURT: I thought I was going to be too, but  
5 it sounds like I'm not. Let's see where we are. All right,  
6 Mr. Patterson, I'll turn it over to you.

7 MR. PATTERSON: Yes, Your Honor, and Mr. Dalessio  
8 is also here in case we need him, but we've gotten --

9 THE COURT: Good afternoon, sir.

10 MR. PATTERSON: -- a couple of discovery requests  
11 from the Committee. We've talked to the Committee -- we've  
12 talked to the Committee about it, about the broadness, the  
13 burden. They just sent a 2004 request instead. I think  
14 it's an appropriate -- an inappropriate use of 2004 just to  
15 mine for documents. That's not what 2004 is used, but more  
16 importantly, the requests themselves, I mean, we can go  
17 through them. But the Court can look and see how broad they  
18 are. They've asked for the history of this company, all  
19 bank statements, all copies of checks, all wire transfers,  
20 all drafts. It's -- it has no relation to anything going on  
21 in this case and they're just in waiting to back off of it,  
22 it appears.

23 THE COURT: Okay. Ms. Porter?

24 MS. PORTER: Good afternoon, Your Honor.

25 Katherine Porter for the Committee. The Committee requests

1     that this hearing -- that the Court deny ESG's Motion and  
2     also compel ESG to comply with the Committee's discovery.  
3     We filed an Objection and Countermotion yesterday at Docket  
4     320, which sets forth the bases that we believe support  
5     denial of ESG's Motion and the reasons that it's necessary,  
6     at this juncture, to compel ESG to comply with the  
7     Committee's discovery. I will not repeat all of the  
8     arguments from our papers, but I would like to highlight a  
9     few points that we view as important for the Court.

10           The first, which I'd like to note at the outset,  
11     is biased Motion. ESG does not seek to narrow discovery.  
12     It seeks to avoid discovery entirely. They asked that the  
13     Court enter an Order that denies all discovery from ESG to  
14     the Committee. And in the course of our correspondence with  
15     ESG, we likewise have received no offer of some sort of  
16     other selection of documents that ESG would consider  
17     appropriate and be willing to provide to the Committee. The  
18     second thing that I would like to raise for the Court is  
19     that the information that the Committee seeks from ESG is  
20     actually very important. As set forth in the Trustee's  
21     Report and has been reported by the Debtor's counsel herself  
22     multiple times on the record, this debtor routinely engaged  
23     in handshake deals with insufficient, at best,  
24     documentation, often with insiders. And from our  
25     understanding, those business practices continued with

1 respect to ESG as they did with many of the Debtor's other  
2 counterparties.

3 The information that the Committee seeks which is  
4 in ESG's possession is the only way for the Committee to get  
5 much of the information it needs to understand the business  
6 relationships that the Debtor had with ESG that are relevant  
7 to the pending Rejection Motion, which the Debtor has filed  
8 at Docket 244. The number and identity of counterparties  
9 that are implicated by that Rejection Motion leaves a  
10 mystery to the Committee and the financial implications of  
11 that Rejection Motion, likewise, are opaque. And we have  
12 sought information from the Debtor in this respect, but we  
13 certainly don't have clarity or confidence that we have the  
14 full picture at this point. And if --

15 THE COURT: Can you repeat that Ms. -- Ms. Porter,  
16 can you repeat that point? I just want to make sure I  
17 understand what you mean by that.

18 MS. PORTER: Yes. So, the Debtor has filed a  
19 Rejection Motion at Docket No. 244, in which the Debtor  
20 seeks to reject two contracts between the Debtor and ESG.

21 THE COURT: Mm hm.

22 MS. PORTER: We have received different  
23 representations from the Debtor's counsel. As the Debtor's  
24 counsel herself gained a different understanding over time  
25 about how many counterparties are implicated by the

1 contracts referenced in that Rejection Motion. So, we don't  
2 have, as the Committee, and this is set forth in the  
3 Committee's Limited Objection and Response to the Rejection  
4 Motion, which is filed at Docket No. 268, I believe. We  
5 don't have a complete picture about what the consequences of  
6 that rejection would be because we don't have a good  
7 understanding of those contracts or of the finances  
8 implicated or how much money ESG is in possession of that's  
9 filed under those contracts, which other counterparty  
10 they're continuing to operate and function, etc., etc. You  
11 get the point, and I don't want to argue that Motion now  
12 because that's not what's before the Court and I don't want  
13 to stray too far down that path. I raise it because it's  
14 the reason why the Committee is so interested in gaining the  
15 information it needs in order to carry out its obligations  
16 to assess that Motion, come up with a final position on that  
17 Motion and investigate the Debtor's affairs and to carry out  
18 its obligations in this case.

19 So, the other thing I'd like to raise is that the  
20 scope of the finances here, we understand, are not small.  
21 We're not talking about small amounts of money, we're  
22 talking about large amounts of money, and this has been put  
23 forward in some filings that are before the Court, including  
24 in our Limited Objection to the Rejection Motion, and it was  
25 stated on the record by the Debtor's representative during

1 one of the 341 meetings with the U.S. Trustee. And that  
2 transcript is attached to our Limited Objection and Response  
3 to the Rejection Motion. Your Honor, does that answer your  
4 questions --

5 THE COURT: No, no, no. It does. Thank you. I  
6 just wanted to make sure I understood.

7 MS. PORTER: -- on that point?

8 THE COURT: Yup.

9 MS. PORTER: Okay. Thank you. The third thing  
10 that I would like to emphasize for the Court is that we do  
11 not take it lightly to seek the Court's time and attention  
12 on discovery matters. The Committee has taken great pains  
13 to work cooperatively and constructively with our parties in  
14 the case to undertake its discovery work in this case. And  
15 we've granted extensions on deadlines, sought compromises  
16 wherever possible and we've been successful so far in  
17 reaching compromises with multiple parties and have not had  
18 to seek the Court's attention yet, which is a reflection of  
19 our approach to discovery in this case. ESG, however, has  
20 simply refused to engage. And the Federal Rules of Civil  
21 Procedure, the Federal Bankruptcy Rules and the Local Rules  
22 of this Court all require a certain level of cooperation and  
23 colloquiality between parties in connection with the  
24 discovery process. Unfortunately, we just haven't been able  
25 to do that here, and the effort of the Committee to engage

1 with counsel for ESG are reflected in Exhibit 2 to our  
2 Objection at ECF 320, and also at Exhibit -- the exhibit  
3 that we submitted for this hearing, Your Honor, at Docket  
4 No. 318, Exhibit 1. I don't want to speak --

5 THE COURT: So, has there -- has there been a meet  
6 and confer?

7 MS. PORTER: There has been one meet and confer.  
8 It took place on May 16th. At that meet and confer, it was  
9 our understanding at the onset -- at that meet and confer,  
10 there was only one document request pending. It was the  
11 document request --

12 THE COURT: Let me -- let me ask you this -- Ms.  
13 Porter, let me -- let me ask you a better question --

14 MS. PORTER: Okay. Yeah.

15 THE COURT: -- because I -- I think mine was way  
16 too open-ended.

17 MS. PORTER: Okay.

18 THE COURT: Since the Motion for the Protective  
19 Order was filed, has there been any attempt to meet and  
20 confer or any attempt to try to talk about these issues  
21 before it got to me?

22 MS. PORTER: Yes, Your Honor, multiple, multiple  
23 attempts by the Committee. In fact, if you'll recall on May  
24 19th, a Status Conference was held in this Court unrelated  
25 to discovery involving ESG, at which Mr. Patterson spoke and



1 mentioned that a Motion would be coming. I was frankly very  
2 surprised to hear that because I thought that we were  
3 proceeding -- had agreement and were proceeding in  
4 discovery. So, I instantly sent an email to Mr. Patterson  
5 and asked if -- asked to meet and confer. He refused to set  
6 a time. I followed up multiple times asking to meet and  
7 confer. Again, he refused to set a time. After the Motion  
8 for the Protective Order was filed, I again asked for a  
9 chance to meet and confer, and he refused to set a time.  
10 And so, the answer to your question is, since May 19th, we  
11 have not spoken, but the Committee has made multiple  
12 attempts to speak.

13 THE COURT: Mr. Patterson, is there a reason no-  
14 one has -- there hasn't been any attempt to try to talk  
15 about these issues?

16 MR. PATTERSON: Yeah, one in particular. When we  
17 had our meet and confer when I first got into this case, we  
18 talked, and I had in front of me the first discovery  
19 request, which was -- I'll describe as outrageously broad,  
20 and I let my concerns be known that there was only one  
21 contested matter pending against my client. It related to  
22 the rejection of two contracts, and I couldn't see where  
23 they were entitled to see every bank statement that he has  
24 ever received since his company started, and it goes on from  
25 there, 12 years of text communications. And the response I

1 got was, "We'll just send you a 2004 and you'll do it that  
2 way."

3 THE COURT: Yeah, but I'm looking --

4 MR. PATTERSON: Okay --

5 THE COURT: I'm looking at emails where --

6 MR. PATTERSON: -- if you're going to be heavy  
7 handed.

8 THE COURT: And I'm looking at emails where folks  
9 are trying to reach out to you, and you never responded. Is  
10 there a reason?

11 MR. PATTERSON: Because I was instructed what I  
12 was going to do by the Committee.

13 THE COURT: C'mon, man.

14 MR. PATTERSON: And I told her, you can withdraw  
15 if you want. But we talked about it once and then nothing,  
16 right, nothing, until I filed my Motion -- until I tell the  
17 Court, "We're going to have a hearing" because I had already  
18 told her we can't do this and she knew that was our position  
19 and the Committee went ahead and did it anyway, and they --

20 THE COURT: I know, but I'm just asking since --

21 MR. PATTERSON: In fact, she knew what I was going  
22 to do.

23 THE COURT: Okay. Ms. --

24 MR. PATTERSON: So, how many times do I have to be  
25 told --

1 THE COURT: I don't think you have to be told  
2 anything. I just think if somebody --

3 MR. PATTERSON: -- or confer regarding --

4 THE COURT: I do think if somebody emails you, you  
5 can respond to the email. That's what I'm saying.

6 MR. PATTERSON: That's -- that's true. That's  
7 true --

8 THE COURT: Because essentially --

9 MR. PATTERSON: -- and I did.

10 THE COURT: -- I just think everybody's going to  
11 leave it up to me to make the decision and I'll do it now.  
12 But I'm not really sure it's that beneficial. I'll make a  
13 call.

14 MR. PATTERSON: If -- if -- and the other -- I  
15 mean, a perfect example, Judge. I got a Notice of  
16 Deposition for my client less than 24 hours before the  
17 deposition, and then they go to take a Non-Appearance  
18 Notice. What is that? I didn't get notice of that --

19 THE COURT: I know.

20 MR. PATTERSON: -- other than less than 24 hours  
21 and told that I needed to appear with my client, which we  
22 couldn't. And so, just the attitude of the Committee  
23 regarding this discovery was they're entitled to it. I --  
24 look, the other piece is, and what's been told to you is, my  
25 client is just unwilling to cooperate. Well, I would ask

1 the Committee, have they talked to anyone else? I think she  
2 said, "We're trying to work with all parties." Well, my  
3 client went and met with the FSS Sub-5 Trustee -- met,  
4 physically, at his own expense and provided documents that  
5 they asked for. Did they ask them for any of this  
6 information? Are they coordinating? I mean, my guy is  
7 getting whipsawed here and it's just getting worse, and so -  
8 -

9 THE COURT: I don't think so. I -- I think --

10 MS. PORTER: May I respond?

11 THE COURT: No, no. I -- let me ask, so I'm going  
12 through this. I couldn't tell the scope in terms of the  
13 time, but I've read your response and you said it was like  
14 limited to two years. Is that right?

15 MR. PATTERSON: No. It goes back -- it goes --

16 MS. PORTER: My understanding is that --

17 THE COURT: I couldn't tell. I -- close to 2012  
18 is what I saw on the request itself.

19 MR. PATTERSON: Correct.

20 THE COURT: But then I saw that your Response said  
21 two years and I just couldn't make sense of it.

22 MR. PATTERSON: Well, business has been -- it was  
23 created two years ago, approximately two years ago. So, the  
24 banking information is two years, but electronic  
25 communication they've asked for 11 years.

1 THE COURT: Got it.

2 MR. PATTERSON: Eleven plus.

3 THE COURT: So, Ms. Porter, tell me what you're  
4 really looking for? Look, and I'm giving you an example.  
5 So, when I see docs and communication concerning the  
6 creation of Elevated Solutions Group, LLC, clearly, you're  
7 not looking for every possible email ever created where  
8 someone emails someone and said, "You know, by the way, you  
9 know, look at what I created?" It clearly can't be what  
10 you're after, and I'm not saying -- this is why I really  
11 wish parties should have -- could have and should have  
12 talked about this, but now it's left in front of me, so I'll  
13 make the decision. Tell me what you're really after.

14 MS. PORTER: Thank you, Your Honor. I agree that  
15 I really wish that we could have had a conversation with --

16 THE COURT: No, no, no. I don't -- let's just --  
17 let's just put it all away and let's just -- I'm just going  
18 to make decisions. So, tell me what you're really after --

19 MS. PORTER: Okay. What we're --

20 THE COURT: -- with 1 -- with 1, 2 and 3.

21 MS. PORTER: Yes, I'd be --

22 THE COURT: Maybe that's the better way of saying  
23 it, and 4.

24 MS. PORTER: Our understanding is that this entity  
25 was created by the Debtor's father in 2021. So, in the lead

1 ups to bankruptcy and what we'd like to understand is, why  
2 it was created. The Subchapter 5 Trustee's report clearly  
3 outlined practice and pattern picked up in the lead up to  
4 the bankruptcy of the Debtor and his family members creating  
5 entities and negating an affiliate transaction, many of  
6 which had the effect of moving money away from the eventual  
7 Debtor's estate when they filed shortly thereafter. So,  
8 we're not looking for every piece of paper that relates to  
9 ESG's creation, but to the extent that ESG -- and again, we  
10 believe that these requests really only cover two years  
11 because we think that they are directed to ESG and ESG  
12 specific for two years. So, we think that, by all the facts  
13 and purposes, it's a two-year request. But, in response to  
14 request --

15 THE COURT: So -- so, I'll limit it to two years.  
16 Everything is limited to two years now. So, two years --

17 MS. PORTER: (indiscernible)

18 THE COURT: Yeah (indiscernible)

19 MS. PORTER: It was created in March of 2021, so  
20 it's two plus -- two years and a few months.

21 THE COURT: Okay. So, it's -- so now all document  
22 requests are now subject to March -- at least -- and we'll  
23 go down the line and figure out which ones we take. But  
24 everything is as of March of 2021, when ESG was created.

25 MS. PORTER: Yes.

1 THE COURT: Okay.

2 MS. PORTER: Thank you.

3 THE COURT: So now, how do we -- how do we limit  
4 the scope of 1, 2 and 3? I'm not excluding you, Mr.  
5 Patterson. I'm including, kind of, a joint discussion here.  
6 1, 2 and 3, tell me what you're really after? I mean,  
7 looking for documents and communications concerning the  
8 creation of ESG, it seems like what you're looking for --  
9 like, 1 and 2, theoretically could be combined in a way.  
10 Tell me what you're really after there. I'm just trying to  
11 make sense of -- to get you what you're really -- what  
12 you're really looking for and I got it. If you're looking  
13 for documents creating -- the creation and who the founders  
14 were and who created and documents and communications  
15 concerning that, I think that sounds like a reasonable  
16 request.

17 MS. PORTER: Yes, and -- yes, and the purpose of  
18 the creation is also something that we're interested in.  
19 The purpose was -- you know, what business purpose it could  
20 have served is something that we're interested in about how  
21 it was --

22 THE COURT: And documents and communication  
23 concerning the Debtor or Free Speech. What are you really  
24 after there?

25 MS. PORTER: So, my expectation is that this is

1 not a large request because the Debtor doesn't email, or  
2 text very much based on what we've learned so far in this  
3 case. And so, I believe that two years of communications  
4 between the Debtor and Mr. Dalessio will not be very  
5 extensive at all, will involve one text chain and perhaps a  
6 few emails, is my expectation. Something that if Mr.  
7 Patterson is able to give me other information, I'd be happy  
8 to consider it and discuss burden, but that's my  
9 expectation. So, any communication sent by or on behalf of  
10 ESG to the Debtor or regarding the Debtor or FSS's business  
11 arrangements with ESG, I expect will be a very small set at  
12 the end of the day.

13 THE COURT: Okay. With respect to the -- with  
14 respect to the accounts -- I'm just going to go down the  
15 list, Mr. Patterson. I'm going to give you an opportunity  
16 to respond. I just -- with respect to the accounts --

17 MR. PATTERSON: Okay.

18 THE COURT: -- could it not be limited to accounts  
19 between ESG and the Debtor or Free Speech?

20 MS. PORTER: So, my understanding --

21 THE COURT: I'll tell you why (indiscernible)  
22 this, because 6 gets me nervous. Six gives me a little  
23 heartburn in terms of some of the parties that are there and  
24 that's where I'm going.

25 MS. PORTER: So, the list in 6 comes from an email



1 that Mr. Dalessio sent to the Debtor's counsel, identifying  
2 all of the actual and potential counterparties that he was  
3 working on or work with Jones. So, that is a targeted list,  
4 all of which we know will lead to Jones, and the FSS and  
5 work that ESG was the middleman and was bringing in funds  
6 for the Debtor. And so that's our response to 6. It was  
7 not a fishing expedition. It's a targeted and careful list.  
8 The reason that we believe the bank records are so  
9 critically important is based on the fact that the Debtor  
10 did not taper his contracts in any reliable way, nor did he  
11 engage in typical business record maintenance practices or  
12 email practices. The only reliable source of information,  
13 the best, reliable source of information that we have come  
14 across in this case, are the bank records, because they show  
15 the actual flow of funds. And we have found no other  
16 substitute for information or documents that even comes  
17 close to reliability or completeness. And that's why it's  
18 so important --

19 THE COURT: Isn't there a way to -- isn't there a  
20 way to, kind of, limit the bank records to just -- and I --  
21 just show you what you're looking for and typically -- and I  
22 got it, ESG could have done other business, but if ESG was  
23 doing other business unrelated to the Debtor or Free Speech,  
24 I have no connection to it. Are you looking for that  
25 information, as well or are you looking for, kind of, a

1 targeted approach? And I got it, there could be some loose  
2 relationships between the parties and that's what you're  
3 seeking to discover. I'm just trying to explore what you're  
4 looking for.

5 MS. PORTER: Yes, so I could be wrong on this, and  
6 this is something I wish I could have spoken about with  
7 ESG's counsel, but I don't believe that ESG has any business  
8 relationships that are wholly independent, unrelated in any  
9 way, shape or form with the Debtor or FSS. It was created  
10 by the Debtor's father just two years ago and my  
11 understanding is that the business arrangements they had all  
12 come back to the Debtor at the end of the day. And so, I  
13 could be wrong about that and if there is a wholly and  
14 distinct and utterly separate business arrangement that has  
15 no (indiscernible) connection to the Debtor, we would be  
16 willing to discuss redacting those from the production.  
17 We're not seeking to get into Mr. Dalessio's private  
18 business affairs or personal matters. We're really only  
19 interested in the Debtor. My concern, Your Honor, is one  
20 that I think you have anticipated, which is, we may have a  
21 disagreement about whether a party ultimately is connected  
22 to the Debtor at the end of the -- a counterparty was  
23 connected to the Debtor at the end of the day, and I would  
24 like to avoid those arguments, if possible, by having  
25 complete bank records. But that's something that I would be

1 very happy to work with Mr. Patterson to negotiate.

2 THE COURT: Okay. Mr. Patterson, let me hear from  
3 you.

4 MR. PATTERSON: This is -- this is where we ended  
5 up. It's a whole lot of speculation and you're putting the  
6 burden on my guy to come up with this stuff and to prove  
7 them wrong. And that's just not the way that it happened.  
8 The information that's related to the Debtor, the Sub-5  
9 Trustee has been given, all of it. He met with them, he  
10 answered their questions, he produced documents, and they  
11 even asked the Sub-Trustee -- the Sub-5 Trustee for any of  
12 this. So, you know, to put the burden on ESG to produce  
13 everything, but redact information, again, is, I think --  
14 he's got a business to run. His business does do things not  
15 related to FSS and Alex Jones, and to say that it doesn't --  
16 again, I think she admitted she was just guessing or  
17 speculating, and Mr. Jones' father doesn't have anything to  
18 do with this business. He was bought out months ago and I  
19 can get you the date, but that information was also provided  
20 to the Sub-5 Trustee, so --

21 THE COURT: Months ago? Months ago, as in, like,  
22 how many months ago?

23 MR. PATTERSON: I think -- I think December, but  
24 I -- I have the information and I can get it for you.

25 THE COURT: Got it.

1 MR. PATTERSON: One second.

2 THE COURT: Okay. Fair enough. I'm just thinking  
3 -- so, you think some time in the last 6-8 months?

4 MR. PATTERSON: October -- October of 2022.  
5 October of 2022.

6 THE COURT: Okay.

7 MR. PATTERSON: And here's the other -- I'm sorry,  
8 Your Honor. I didn't hear what you said.

9 THE COURT: No, no. Go ahead. No, no. I'm just  
10 listening to you.

11 MR. PATTERSON: October 2022 and on hand she's  
12 saying we're looking for communications from ESG and then  
13 she immediately switches to Mr. Dalessio. So, there was --  
14 there was a relationship prior to ESG and there may be non-  
15 ESG communications, as well. I don't know that one way or  
16 the other. But the heading is where we got hung up last  
17 time. So, the bank account information, again, as it  
18 relates to FSS or Mr. Jones, the Sub-5 Trustee has it. And  
19 my recommendation is, number one, ask and then review what's  
20 there and see if there's follow up or additional information  
21 that may be related. But, quite frankly, I can't figure out  
22 exactly what they want. And I will say -- I know you were  
23 looking at number 6.

24 THE COURT: Mm hm.

25 MR. PATTERSON: And we also, obviously, looked at

1 number 6. ESG has no unwritten agreements with anyone  
2 involved in this bankruptcy case. There are none. Mr.  
3 Dalessio can testify to that under oath. But he did not do  
4 side deals, he did not do handshake deals, he did not do un  
5 -- anything unwritten is what I've been provided, that  
6 everything that he has that's related is in writing. And  
7 so, we can -- I think we can put that to rest as far as ESG  
8 is concerned. I know there's lots, or I've heard there's  
9 lots of unwritten deals, but not with ESG.

10 THE COURT: Okay. Mr. Dalessio, and I say this in  
11 the presence of your attorney, I don't know anything in  
12 what's being presented to me. So, anything I say is  
13 certainly not a reflection upon what I think has happened or  
14 hasn't happened at all. I -- none of those issues are  
15 before me. I don't know anything. I'm just here to resolve  
16 a dispute among parties and discovery. So, that's -- it's  
17 been left to me, so I do it. There are some parties who  
18 seem to be logging in. I'm going to ask that you please put  
19 your phone on mute. There's live court going on, and I'm  
20 trying to avoid muting the entire line here. So, why don't  
21 we just start here? I think -- I think with respect to --  
22 just a second.

23 (indiscernible)

24 THE COURT: I apologize. I had to mute someone.  
25 Let's see.

1 (indiscernible)

2 THE COURT: All right. I'm just going to mute the  
3 line.

4 AUTOMATED VOICE: Conference muted.

5 THE COURT: There are some folks who are dialing  
6 in for a 2 o'clock and haven't muted their lines, so I'll  
7 just speak and if anyone wishes to speak, they can hit 5\*.  
8 Ms. Porter, can you hit 5\*? I want to just ask you a  
9 question. Mr. Patterson, I'll ask that you hit 5\* too. I  
10 just want to make sure that I've got you both on the line  
11 here.

12 MS. PORTER: I'm here, Your Honor. Can you hear  
13 me?

14 THE COURT: Thank you. Yup, I can hear you. So,  
15 with respect to the communications with the Debtor, how do  
16 you -- so, I find -- and I've got it, we're going to limit  
17 this to March of 2023, documents or communication --

18 MS. PORTER: 2021.

19 THE COURT: 2021, excuse me. Right. I think 1, 2  
20 and 3 can be limited to documents concerning the -- I don't  
21 think it needs to be all documents and communications  
22 concerning the creation of ESG. And I mean, obviously it's  
23 whatever Mr. Dalessio has in his possession, custody and  
24 control. But I don't know how large of a scope that is, so  
25 I am documenting communications with or concerning the

1 Debtor or with or concerning Free Speech. I just don't know  
2 how broad that is, but clearly, you're not looking for --  
3 you're looking for certain types of documents and help me  
4 articulate what you're looking for and I'll make sure you  
5 get it. I will say, I don't -- I view the Rejection  
6 Discovery Request -- I think it would be appropriate for the  
7 Committee to ask for documents concerning the scope of what  
8 the rejection is, but I view the 2004 request wholly  
9 different. And so, I don't think these things overlap.

10 I do think that, you know, really the requests are  
11 for two contracts and whether the Debtor has exercised its  
12 business judgment on that. I think the Debtor is going to  
13 have to answer a lot of those questions and what the scope -  
14 - the extent of the Rejection is and what that means. But  
15 I'm not sure ESG should be answering that question because  
16 it's, kind of, the counterparty on this. But I do think the  
17 2004 -- that's why I think 2004 works in this instance. But  
18 help me articulate what it is that you're looking for  
19 because I want to make sure that I can give some clear  
20 instruction here and let you all go off and produce. And I  
21 don't know what the scope and extent of the documents is and  
22 whether this is really all -- how much we're actually  
23 talking about. Especially if there's not a lot of email  
24 communication. That's what I'm trying to get my hands  
25 wrapped around. And I'll start the 2 o'clock as soon as I'm

1 done.

2 MS. PORTER: Thank you. I think what I would  
3 articulate it as documents and communications concerning the  
4 creation of Elevated Solutions Group, the purpose of  
5 Elevated Solutions Group, the funding for Elevated Solutions  
6 Group and any intended or actual business arrangements that  
7 Elevated Solutions Group explores or enters into of and  
8 concerning the Debtor or FSS.

9 THE COURT: No, I --

10 MS. PORTER: So --

11 THE COURT: I think it's appropriate for now to  
12 ask about -- concerning the creation and the funding. That  
13 I'll permit. Creation, funding and intended business  
14 partnerships at the time of its creation with business.  
15 And Mr. Dalessio, I don't know what that means and whether  
16 that's going to be overly burdensome. But if it is, let me  
17 know. Not today. You certainly have time because I'm  
18 giving instruction here. I think for documents and  
19 communications with or concerning the Debtor, I think you're  
20 really going towards the business relationship between ESG  
21 and the Debtor --

22 MR. PORTER: Correct.

23 THE COURT: -- and business relationship with Free  
24 Speech, as well. So, that's the way I view 2 and 3.  
25 Documents and communications regarding any accounts. I do



1 think if there's accounts that relate to the business  
2 relationship, they can be produced. Mr. Patterson, you  
3 know, maybe the parties can work on, kind of, an attorneys-  
4 eyes-only to the extent that there's some issues there,  
5 provide additional matters there. I think that can be  
6 appropriate in those circumstances. It might be easier just  
7 to do an attorneys-eyes-only just so they can see -- you can  
8 see everything. If not, if they want to redact, I'm going  
9 to give Mr. Patterson the option to do that. And I don't  
10 know the extent of what this looks like.

11 I think I'm going to exclude because I just  
12 think it's covered in 1 and 2. I could be wrong about that,  
13 but I'm going to strike 5 and I'm going to give you 6, but  
14 as it relates to business relationships between the Debtor  
15 or Free Speech and one of these parties. And I'm being  
16 really serious about this. I want to make sure this doesn't  
17 -- some of this stuff can just be of interest for other  
18 people that have no relationship with this case and no  
19 interest in it, Ms. Porter. And I'm not saying -- I just -  
20 - I need this just treated with every level -- and I'm happy  
21 to sign anything that protects confidentiality. I don't --  
22 here where appropriate. If it's public knowledge, it's  
23 public knowledge, but if it's not, I just -- I want to make  
24 sure that you're only getting things that relate to this  
25 case and if ESG was doing something with one of these other

1 parties, independent of the Debtor, I'm not interested and I  
2 don't want you to -- it's irrelevant in my mind, and I'm  
3 going to let them make -- they should be able to produce  
4 that information.

5 MS. PORTER: Thank you very much, Your Honor. And  
6 I just want to state for the Court's peace of mind that we  
7 take our confidentiality obligations very, very seriously.

8 THE COURT: I know you do. I know you do. And I  
9 know Mr. Patterson does, as well. I'm not worried about  
10 that, but I am going to ask that you'll have a conversation  
11 just in terms of getting appropriate -- there may already be  
12 one of those out there --

13 MS. PORTER: There is, yes.

14 THE COURT: -- and if it is -- okay, well then,  
15 let it apply. I know -- and if anything comes up, just call  
16 Rosario and she'll get you a hearing. All right, folks.  
17 Thank you very much.

18 MS. PORTER: Thank you, Your Honor.

19 THE COURT: I'm going to turn to my 2 o'clock --

20 MR. PATTERSON: Judge --

21 THE COURT: Yes, Mr. Patterson?

22 MR. PATTERSON: A couple more -- a couple more  
23 issues. I think they're easy, but they're still there, is,  
24 they required production in TIF format with OCR images and  
25 along with separated or broken out metadata on any

1 electronic -- and everything produced electronically in that  
2 format. We can't -- ESG doesn't have that capability. It  
3 would require them to hire someone to do that and I think  
4 it's inappropriate under the rules.

5 THE COURT: Yeah, I'm not making -- produce it in  
6 whatever form you have.

7 MR. PATTERSON: All right, and finally is, are  
8 these requests now combined -- because they're identical,  
9 they sent two identical ones, one under 2004, and one --

10 THE COURT: Yeah. And again -- and I'm -- let me  
11 make this really clear, Mr. Patterson, because I think it's  
12 a fair question. I view the Request for Rejection relating  
13 to really going to what the Motion is asking me to do at  
14 that time. So, to the extent that there's a duplicate  
15 request here that I'm covering in the 2004, I don't think  
16 you need to respond to in the -- in connection with the  
17 Motion to Reject. Motion to Reject is asking me to approve  
18 the Debtor's business judgment in rejecting two contracts,  
19 and I think there are questions they can ask the Debtor that  
20 they don't need to ask ESG. So, to the extent I'm granting  
21 something under a 2004, I'm not granting it under a  
22 duplicate request here. So, if it's covered -- if it's one  
23 of the things that you produced here in one of the questions  
24 here, I don't think it goes to the Motion to Reject. I  
25 think the Motion to Reject is about the Debtor's business

1 judgment. But I do think it's fair for them to ask and  
2 inquire from the Debtor, you know, once this contract is  
3 rejected, what's the effect of that rejection and how far  
4 does it reach? I think that's something Ms. Stevenson's  
5 going have to -- once the question, if it's raised to me,  
6 I'm certainly going to ask at the hearing just so I  
7 understand because I think it goes to business judgment.  
8 And I'm sure that there may be a very well -- a good answer.  
9 I'm not saying there's not, it's just another question for  
10 another day.

11 MR. PATTERSON: Right, and last, cost. If we're  
12 going to go to the bank and order this, I assume the  
13 Committee will reimburse the cost because look, the right  
14 way to do it is, subpoena the bank and I know why they  
15 didn't do it, is because the bank charges them. But it  
16 costs us even more than it would be to go directly to the  
17 bank and get this information. It's going to have a cost  
18 associated with it.

19 MS. PORTER: We would be happy to work with Mr.  
20 Patterson on all of this, regarding metadata, you know,  
21 along with production --

22 THE COURT: Yeah, that's what I mean. I'm going  
23 to let you all work it out.

24 MS. PORTER: I don't think we need the Court  
25 (indiscernible)

1 THE COURT: I'm not asking them to go invent  
2 anything and if there's a cost associated, the Committee --  
3 and if the Committee has to incur it, you know, it'll be an  
4 expense to the estate. We're just going to get to the --  
5 the Committee's got their work to do and I understand, Mr.  
6 Patterson, that it'll be what it is.

7 MR. PATTERSON: And I guess -- and final question,  
8 are they going to redraft these or are we just going off of  
9 your comments?

10 THE COURT: Going off my comments. I want to just  
11 keep --

12 MR. PATTERSON: All right.

13 THE COURT: Unless anybody sees it differently, we  
14 can just go off of the comments and let the parties work and  
15 I'm going to let you all work on when -- I don't know what  
16 date is provided in there. I don't feel like making one up,  
17 but I will if you need me to. When do these documents --  
18 when were they scheduled to be produced? Let me just ask  
19 that. Maybe I ought to just give the -- June 20th?

20 MR. PATTERSON: (indiscernible)

21 MS. PORTER: (indiscernible)

22 THE COURT: It says June 20th at --

23 MS. PORTER: (indiscernible) June 20th, yes.

24 Under the Rule 2004 Requestion.

25 THE COURT: Yeah. Yeah, I see. Is there already,

1 kind of, an examination scheduled Ms. Porter?

2 MS. PORTER: A deposition?

3 MR. PATTERSON: They've --

4 THE COURT: In connection --

5 MS. PORTER: No, we've asked -- we've asked for  
6 dates, but we haven't yet received those --

7 THE COURT: Okay. So, I'm going to ask that you  
8 all schedule a date. I'm going to --

9 MR. PATTERSON: Well, that was part of my  
10 objection. That's part of my objection is, they never set  
11 one. They didn't utilize it as an examination, they used it  
12 as a document finding tool. So, there was nothing ever  
13 scheduled or noticed.

14 THE COURT: So, what I'm going to do is, Ms.  
15 Porter, I'm going to let you all work that out. If you need  
16 me to -- I don't -- I don't need to come up with a date now.  
17 I'll let you all take a look at your schedules and stuff,  
18 but I'm going to extend it till Friday the 23rd. So, I'm  
19 going to give everyone a few extra days so they can, kind  
20 of, just see -- it was the 20th, now it'll go to the 23rd at  
21 5 p.m. I'll just push it out a few days in light of what  
22 I've said, and hopefully the parties will get on the phone  
23 and talk these issues through. If not, just get them -- you  
24 know, I guess Monday's a -- no, that's in two weeks. So,  
25 I'll be around all next week if anyone needs me.

1 MR. PATTERSON: Thank you, Your Honor.

2 THE COURT: All righty. Thank you so much.

3 MS. PORTER: Thank you, Your Honor.

4 (Proceedings adjourned at 2:12 p.m.)

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I certify that the foregoing is a correct transcript from  
the electronic sound recording of the proceedings in the  
above-entitled matter.

A handwritten signature in dark ink, reading "Sonya M. Ledanski Hyde". The signature is written in a cursive, flowing style. The first name "Sonya" is written with a capital 'S' and a lowercase 'y'. The middle initial "M." is written with a capital 'M' and a period. The last name "Ledanski" is written with a capital 'L' and a lowercase 'i'. The surname "Hyde" is written with a capital 'H' and a lowercase 'e'.

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: June 15, 2023